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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,957	08/20/2001	Jeff Jacob Brauer	Q92694	7951

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

NOTIFICATION DATE	DELIVERY MODE
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10/06/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@sughrue.com
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Office Action Summary	Application No. 09/933,957	Applicant(s) BRAUER, JEFF JACOB	
	Examiner JOHN VAN BRAMER	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on May 20, 2009 has cancelled claims 21-22 and 24-27. Claims 1-20, and 23 were cancelled by previous amendment. New claims 28 and 29 were added. Thus, the currently pending claims considered below are Claims 28 and 29.

Claim Objections

2. Claim 28 objected to because of the following informalities: Claim 28 appears to consist of more than one sentence. The applicant is reminded that claims must only be written as a single sentence. The examiner suggests removing the period at the end of the receiving step and replacing it with a semi colon. The first submitting step recites "the property". As a property has not been previously claimed antecedent basis issues arise based upon the claim limitation as currently written. The examiner suggests amending the step to recite "a property". The agreeing step recites "to host computer" and should probably recite "to said host computer". The seventh step claimed recites "Sid host computer" and this appears to be a minor typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingraham et al. (PGPUB: US 2001/0037280 A1) in view of Good et al. (PGPUB: US 2001/0039496 A1)

Claim 28: Ingraham discloses method for conducting a real estate transaction between a host computer, a real estate buyer, and the real estate seller's broker, the method comprising:

- a. Submitting property listing data related to the property to the said host computer. (Paragraphs [0013]-[0014]; [0043]-[0044])
- b. Agreeing upon a transaction fee, which may be a fixed amount or a percentage of the selling price, for listing or selling the property to be paid to host computer by the property owner. (Paragraph [0020])
- c. Said host computer assigning a code to the property listing data to link the property listing data to the real estate seller's broker who submitted the property listing data, said property listing data includes a type of discount or rebate offered for a successful procurement of the property (Paragraphs [0020] – [0021]; [0042] through [0044]; and [0049])
- d. Receiving property search criteria by said host computer from said real estate buyer. (Paragraphs [0015] – [0016]; [0035]-[0039])
- e. When the said real estate buyer procures said property:

1. Said real estate buyer requests payment of the discount or rebate from the said host computer. (Paragraph [0020] – [0021])
2. Said host computer notifies said property owner of real estate buyer's request for payment. (Paragraph [0020] – [0021])
3. Said host computer pays the said real estate buyer the discount or rebate associated with said property listing as submitted to the said host computer. (Paragraph [0020] – [0021])
4. Said host computer collects a transaction fee from property owner. (Paragraph [0020] – [0021])

While Ingraham does not specifically state that the property listing is submitted by the said real estate seller's broker, he does indicate in paragraph [0013] that a leasing agent exists. Additionally, Ingraham discloses in paragraph [0012] that the term “property owner” is intended to refer to any person, group of persons, or entity that is seeking rental or sale of a property in part or in whole. Such a person or entity may be denoted as a responsible party as it is this person, group of persons, or entity that is responsible for the renting or sale of the property. However, the analogous art of Good discloses a relationship between the broker, the tenant, and the owner of an apartment complex rental in paragraphs [0001] through [0005] and paragraphs [0053] through [0054]. The cited section of Good discloses that a Broker is a “property owner” as defined by the Ingraham disclosure and that it is known for said brokers to submit property listing data to a host computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time

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the invention was made for the broker to submit the property listing data. The rational for doing so is that there are a limited number of predictable parties that can be responsible for the renting or sale of the property and one such predictable party is a broker.

Additionally Ingraham does not specifically state that said real estate seller's broker collects the transaction fee from said real estate seller when said real estate buyer procures said property. However, the "property owner" in Ingraham is the broker that is listing the property. Thus, Ingraham is silent with regard to the agreement between the broker and the real estate seller except to disclose that the broker is a "responsible party" that is responsible for renting or sale of the property in paragraph [0012]. However, the analogous art of Good, discloses that it is well known for a real estate seller to pay a transaction fee to a broker upon completion of a real estate buyer procuring a property in paragraphs [0045], and [0052] through [0054]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the real estate seller to pay a transaction fee to a broker upon completion of a real estate buyer procuring a property. The rational for including such a fee is that it is that brokerage fees have become an acceptable part of the marketing campaign and the higher occupancy levels achieved with the aid of a broker allows owners to raise rents at a faster rate (Good: Paragraph [0045])

Claim 29: The method of claim 1, wherein the real estate buyer rents the target property. (Ingraham: Paragraphs [0012])

Response to Arguments

5. Applicant's arguments with respect to claims 28 and 29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Van Bramer
/John Van Bramer/
Examiner, Art Unit 3622